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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/394,289

09/10/1999

JACK G. SCARPA

N800/ST-108

3986

7590

04/08/2004

NORMAN FRIEDLAND
11300 US HIGHWAY ONE SUITE 400
NORTH PALM BEACH, FL 33408

EXAMINER

KIM, CHRISTOPHER S

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 04/08/2004

29

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/394,289

Applicant(s)

SCARPA ET AL.

Examiner

Christopher S. Kim

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 8-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 28.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on April 1, 2003 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

3. Claims 1-7 stand rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The application as filed does not disclose "said fluid tip including a circular shaped member disposed in said inner tube abutting the inner surface defining said bore of said of said fluid tip and having flats formed thereon" as recited in amended claim 1. The claim now recites the

"circular shaped member disposed in said inner tube." This appears to define aft end 82 of fluid tip 70 which is threaded into inner tub 58. The claim continues to recite "...abutting the inner surface defining said bore of said of said fluid tip." It makes no sense to interpret the claim to mean the circular shaped member abutting the inner surface defining said bore of said of said fluid tip because the circular shaped member is part of the fluid tip. Additionally, such an interpretation would lead to a double inclusion of "a central bore" of the fluid tip. The only reasonable interpretation is that the inner tube is abutting the inner surface defining said bore of said of said fluid tip but the disclosure does not provide, nor do the drawings show, the inner tube abutting the inner surface which defines the central bore of the fluid tip.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites "bore of said of said fluid tip." It is uncertain what "of said of said" is in reference to.

Claim 1 recites the limitation "said fluid tip." There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

6. Claims 1 and 4 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Black in view of Davis, Sr. (3,578,249).

Black discloses a spray gun 62 including a handle 68, the spray gun having: a central passage (passage in gun 62 leading to additional passage formed by tube 12); a concentric passage (passage in gun 62 leading to additional concentric passage formed by tube 27); a nozzle internal of the spray gun (inherent in spray gun 62); a double concentric tube assembly 12, 27; a fluid tip 52; an air cap 15; a dry powdered nozzle 14. Although the spray gun is disclosed as spraying tar and glass fiber, the spray gun is capable of spraying resin and dry powder. Black does not disclose flats on the circular shaped member of the fluid tip. It is well known in the art to use flats on the circular shaped member (the cylindrical surface of fitting 48 of fluid tip 52) to accommodate a wrench. Davis teaches a nozzle 10 having flats 30 having a circular shaped member 36 with threaded section 38 in tube 12. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have provided the flats and circular member of Davis to the fluid tip of Black to accommodate a wrench.

7. Claims 2 and 3 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Black in view of Davis, Sr. (3,578,249) as applied to claim 1 above, and further in view of Breitsprecher.

Black in view of Davis discloses a sleeve 11 having a single passage 60a and not diametrically opposed passages. Breitsprecher discloses, in figure 3, diametrically opposed passages 46, 47. It would have been obvious to a person having ordinary skill

in the art at the time of the invention to have added a second passage that is diametrically opposed as taught by Breitsprecher to the sleeve of Black in view of Davis to promote uniform addition of dry powder.

8. Claim 5 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Black in view of Davis, Sr. (3,578,249) as applied to claim 4 above, and further in view of Schowiak.

Black in view of Davis discloses the claimed limitations with the exception of a receiving box. Schowiak discloses a receiving box 24 attached to a handle 14. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have incorporate the receiving box of Schowiak to the handle of Black in view of Davis to relocate the fiber cutting mechanism, which would have increased the ease of handling the spray gun.

9. Claim 6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Black in view of Davis, Sr. (3,578,249) and Schowiak as applied to claim 5 above, and further in view of Warren.

Black in view of Davis and Schowiak discloses the claimed limitations with the exception of a mixer and manifold. Warren discloses, in figure 1, a mixer 46, a manifold 45, connection means 32, 33, and a hose 48. It would have been obvious to a person having ordinary skill in the art at the time of the invention to use the manifold and mixer of Warren to supply the spray gun of Black in view of Davis and Schowiak.

10. Claim 7 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Black in view of Davis, Schowiak and Warren as applied to claim 6 above, and further in view of Breitsprecher.


Black discloses, in column 4, lines 3-8, a valve actuating trigger. Black discloses a valve connected to the central passage of the spray gun and not the additional central passage. It is a matter of design choice to locate the valve within the gun or within the additional central passage as shown by Breitsprecher. The valve 27 of Breitsprecher extends to opening 40 in the additional central passage. It would have been obvious to a person having ordinary skill in the art at the time of the invention to have located the valve in the additional central passage of Black as taught by Breitsprecher to prevent flow within the additional central passage after the valve is closed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Kim whose telephone number is (703) 308-8336. The examiner can normally be reached on Monday - Thursday, 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Christopher S. Kim
Primary Examiner
Art Unit 3752

CK